

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

SPENCER SUTTON,
Plaintiff,

vs.

CITY AND COUNTY OF SAN
FRANCISCO, CHRISTOPHER M.
MORRIS, CRAIG L. LEONG, STEVEN D.
FERRAZ, and DOES 1-25, inclusive,
Defendants.

Case No: C 10-4563 SBA

ORDER TO SHOW CAUSE

On October 1, 2012, Defendants City and County of San Francisco, Christopher M. Morris, Craig L. Leong, and Steven D. Ferraz (collectively, "Defendants") filed a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. Dkt. 89. Under Civil Local Rule 7-3(a), Plaintiff Spencer Sutton's ("Plaintiff") opposition was due on October 18, 2012.¹ To date, Plaintiff has not filed an opposition or statement of non-opposition to Defendants' motion as required by Civil Local Rule 7-3(b). Nor did Plaintiff attend the mandatory settlement conference scheduled for November 7, 2012. See Dkt. 90.

An action may be dismissed under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute or to comply with a Court Order. See Hells Canyon Preservation Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005) (recognizing that a district court may dismiss an action pursuant to Rule 41(b) sua sponte for a plaintiff's

¹ Under Civil Local Rule 7-3(a), any opposition to a motion must be filed and served not more than 14 days after the motion was filed. Where, as here, the motion was served by mail pursuant to Fed.R.Civ.P. 5(b)(2)(C), the deadline is extended by 3 days. N.D. Cal. Civ. L.R. 7-3(a).

1 failure to prosecute or comply with a court order); Ferdick v. Bonzelet, 963 F.2d 1258,
2 1260 (9th Cir. 1992) ("the district court may dismiss an action for failure to comply with
3 any order of the court").

4 Accordingly,

5 IT IS HEREBY ORDERED THAT:

6 1. Plaintiff shall show cause why the instant action should not be dismissed
7 under Rule 41(b) for failure to prosecute and failure to comply with a Court order. Within
8 fourteen (14) days from the date this order is filed, Plaintiff shall file a memorandum
9 explaining why this action should not be dismissed. The memorandum shall set forth the
10 reason Plaintiff failed to file a response to Defendants' motion for summary judgment, the
11 reason Plaintiff failed to attend the mandatory settlement conference, and any basis for
12 opposing summary judgment. Failure to fully comply with this Order will be deemed
13 sufficient grounds to dismiss the instant action without further notice.

14 2. Defendants shall notify the Court if Plaintiff fails to timely respond to this
15 Order.

16 IT IS SO ORDERED.

17 Dated: 11/20/12

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19 SAUNDRA BROWN ARMSTRONG
20 United States District Judge
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